IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 20TH MARCH 2007 / 29TH PHALGUNA 1928

OP.No. 30510 of 2000(F)

PETITIONER:

GOVERNMENT STAFF WELFARE ASSOCIATION REP.BY
ITS SECRETARY T. BHASKARAN NAIR,
REG.NO.156/88, PRAKASH BUILDING,
JAIL ROAD, KOZHIKODE 673 002.

BY ADV. SRI.THOMAS ANTONY
SRI.K.M.JAMALUDHEEN

RESPONDENTS:
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1. **THE STATE OF KERALA REP.BY**
SECRETARY TO GOVERNMENT,
HEALTH AND FAMILY WELFARE,
(M DEPARTMENT), SECRETARIAT,
THIRUVANANTHAPURAM.

2. **THE CHAIRMAN, THE HOSPITAL DEVELOPMENT SOCIETY,**
HOSPITAL DEVELOPMENT COMMITTEE OF
VARIOUS HOSPITAL IN KOZHIKODE DISTRICT,
COLLECTORATE, CIVIL STATION.

3. **THE SUPERINTENDENT, MEDICAL COLLEGE HOSPITAL,**
KOZHIKODE.

4. **THE SUPERINTENDENT, INSTITUTE OF MATERNITY AND**
CHILD HEALTH, P.O., MEDICAL COLLEGE,
KOZHIKODE.

5. **THE SUPERINTENDENT,**
GOVERNMENT GENERAL HOSPITAL,
BEACH , KOZHIKODE.

6. **THE SUPERINTENDENT, GENERAL HOSPITAL,**
KOTTAPRAMBA.

7. **THE SUPERINTENDENT AND TREASURER,**
TALUK HOSPITAL, VADAKARA, KOZHIKODE.

BY GOVERNMENT PLEADER SRI.P.K.RAVIKRISHNAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 20/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP. NO.30510/2000

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE AWARD IN ID.NO.14/96 DT.5.3.97.

EXT.P2:- COPY OF THE G.O.(P) 1187/99/FIN DT.29.3.99.

EXT.P3:- COPY OF THE LETTER OF THE 1ST RESPONDENT BEARING NO.28502/143/99/H&RWD DT.20.7.99.

EXT.P4:- COPY OF THE CIRCULAR DT.4.9.99.

EXT.P5:- COPY OF THE G.0O.(MS) 141/2000/H&FWD DT.8.6.2000.

EXT.P6:- COPY OF THE COUNTER AFFIDAVIT FILED BY THE PETITIONERS' UNION.

EXT.P7:- COPY OF THE GOVERNMENT ORDER G.O.(MS) NO.132/97 DT.8.4.97.

EXT.P8:- COPY OF THE CIRCULAR NO.12691/E1/92/H&FWD DT.4TH JULY, 1992.

EXT.P9:- COPY OF THE LETTER BY THE SUPERINTENDENT OF GOVT. GENERAL HOSPITAL TO THE SECRETARY OF THE DISTRICT SOLDIERS AND AIRMEN BOARDS SAINIK HOUSE DT.30.4.87.

EXT.P10:- COPY OF THE LETTER BY THE SUPERINTENDENT INSTITUTE OF MOTHER AND CHILD HOSPITAL, CALICUT DT.20.5.88.

EXT.P1:- COPY OF THE LETTER BY THE SUPERINTENDENT INSTITUTE OF MOTHER AND CHILD HOSPITAL, CALICUT DT.9.9.88.

EXT.12:- COPY OF THE LETTER BY THE SUPERINTENDENT GOVT. WOMEN AND CHILDREN HOSPITAL CALICUT DT.8.10.97.

EXT.13:- COPY OF THE LETTER BY THE SUPERINTENDENT GOVT. WOMEN AND CHILDREN HOSPITAL, CALICUT DT.24.5.88.

EXT.P14:- COPY OF THE LETTER BY THE SUPERINTENDENT GOVT. GENERAL HOSPITAL , CALICUT DT.6.3.04.

EXT.P15:- COPY OF THE SELECTION LETTER ISSUED BY LETTER BY THE SUPERINTENDENT GOVT.GENERAL HOSPITAL, CALICUT, DT.3.5.04.

EXT.P16:- COPY OF THE LETTER ISSUED TO ONE OF THE MEMBER OF THE PETITIONER UNION BY THE SUPERINTENDENT OF THE GOVT.HOSPITAL FOR W&C CALICUT DT.16.10.87.

EXT.P17:- COPY OF THE D.O.LETTER DT.2.6.2000.

/TRUE COPY/

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S. SIRI JAGAN, J.

O.P.NO.30510 OF 2000

DATED THIS THE 20th DAY OF MARCH, 2007

JUDGMENT

In this original petition, the petitioner challenges Ext.P5 order by which the Government has in respect of payment of daily wages to staff of various Government Hospitals in Kozhikode District directed thus:

> (i) Government orders fixing daily wages will be applicable only to those staff who are appointed against Government sanctioned posts i.e., those posts lying vacant due to dearth of regular PSC/Employment Exchange hands.
>
> (ii) Wages of daily wages staff under Hospital Development Committees shall be fixed within the financial capacity of each Hospital Development Committee, the maximum limit being the rate fixed for any particular post by Government."

2. The contention of the petitioner is that this would amount to reduction in wages of the Security Guards whom they represent. I do not find any reference to Security Guards in Ext.P5. Further I also find that Ext.P5 contains only guidelines for appointment of daily wage staff and payment of daily wages in Hospital Development Societies. If such orders essentially affect the wages of the workers represented by the petitioner – Union, it is for them to raise an industrial dispute.

The fact that an industrial dispute would lie in respect of such claims is clear from the fact that by Ext.P1 award, the Industrial Tribunal, Kozhikode in I.D.No.14/96 held that an industrial dispute would lie in respect of certain claims of the petitioner – Union itself representing Security Guards of Hospital Development Societies. Therefore without prejudice to the right of the petitioner – Union to raise an industrial dispute in respect of any of their claims as workmen as between themselves and Hospital Development Societies, this original petition is dismissed.

S. SIRI JAGAN, JUDGE

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